

DENISE D. LANE

VS.

Respondent

AND

Insurance Carrier

ORDER

APPEARANCES

RECORD AND STIPULATIONS

The Appeals Board has reviewed the record listed in the Award. The Appeals Board has also adopted the stipulations listed in the Award.

ISSUES

The Administrative Law Judge awarded claimant permanent partial disability compensation based upon a 7 percent scheduled injury to the arm. Claimant contends she also has established a permanent impairment to her back and neck and, therefore, is entitled to a general body work disability.

The sole issue to be considered on appeal is the nature and extent of claimant's disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that claimant sustained a 7 percent permanent partial disability to the left arm and the Award of the Administrative Law Judge should be affirmed.

Claimant met with personal injury by accident on August 27, 1996, when she was attempting to dislodge a sheet of plastic that was caught in an extruder. She fell backwards landing on her left elbow, head, and tailbone area. The dispute here concerns whether the accident resulted in permanent impairment as to the arm only or, as claimant contends, also caused injury to her back and neck.

Dr. John P. Estivo, the treating physician, testified that in his opinion claimant sustained permanent impairment to the upper extremity only. Claimant was referred by her counsel for examination by Dr. Pedro A. Murati. Dr. Murati found an impairment in the arm, back, and neck and rated the claimant's impairment as a general body impairment.

In response to this conflict, the Administrative Law Judge referred to the November 21, 1996, records of Dr. Estivo where claimant reported no back complaints and Dr. Estivo concluded that claimant's thoracic spine pain and coccyx contusion had resolved. Following his release of claimant from his care on January 7, 1997, Dr. Estivo opined that claimant had sustained permanent partial impairment to the upper extremity only. He rated claimant's impairment at 7 percent to the left arm.

After reviewing the record, the Appeals Board agrees with the finding that claimant's disability was limited to the upper extremity. The Appeals Board also finds claimant has a 7 percent disability to the left arm.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Jon L. Frobish dated October 13, 1997, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert R. Lee, Wichita, KS
William L. Townsley, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director